

**REMARKS/ARGUMENTS**

Claims 1-25 remain in the application.

Claims 1, 2, 9 and 18 are currently amended.

**Claim Rejections Under 35 USC § 103**

5        Claims 1-15 were rejected under 35 USC § 103(a) over US Patent 2,684,822 to Odin in view of US Patent 6,631,877 to Crain, et al.

      Claims 16-25 were rejected under 35 USC § 103(a) over US Patent 6,631,877 to Crain, et al. and further in view of US Patent 6,685,385 to Ledingham.

10        The invention as currently amended in claim 1 is patentable over the above combinations of prior art references.

      Odin teaches a tripod supporting structure having a head 1 supported by three lockable telescoping legs 3a, 3b, 3c. Column 2, line 50-column 3, line 6. Each telescoping leg 3a, 3b, 3c is connected to the head 1 by a "flexible leg member 6." Column 3, lines 7-9. Each flexible leg "member 6 comprises a helical spring member 7 constructed of spring steel stock which is circular in cross section, 15 over which is wound a secondary winding 8 of soft iron wire which is more or less oval in cross section." Column 3, lines 9-14.

      Crain teaches a portable support in the form of a tripod 10 having a head 12 and three legs 14 connected to the head 12. Each leg 14 includes a fixed leg member 16, a telescoping leg member 18 and feet 20 with points 22 to help secure the tripod 10 in place. Column 5, lines 6-36.

20        The fixed leg member 16 of each leg 14 comprises a pair of rods 28 located on opposite sides of the telescoping leg member 18. "[T]he rods 28 and the telescoping leg member 18 are extruded (more specifically, "pultruded") from fiberglass or a similar material. Fiberglass has desirable properties of being resistant to warping and plastic deformation, which are detrimental to the precision of the tripod 10." Column 5, lines 37-50.

25        Ledingham teaches a guide rail clamp 40 having a first clamp half 42, and a second clamp half 44 adapted to be removably secured to first clamp half 42. Column 2, line 66-column 3, line 2. The clamp halves 42 and 44 are designed to grip a guide rail 90, which is generally wider at its base. Column 3, lines 7-12.

The present invention previously recited in amended claim 1 is a mounting bracket having a plurality of solitary uniformly continuous and solid permanently bendable support rods each comprising a substantially uniform cross-section extended uniformly between opposing first and second end portions.

5 The term “solitary” is defined as: Existing, living, or going without others; alone. See, e.g., American Heritage Dictionary. The term “solitary” is also defined as: 1a: being, living, or going alone or without companions; 4b: being at once single and isolated; 5a: occurring singly and not as part of a group or cluster. Merriam-Webster’s Collegiate Dictionary, Tenth Ed.

10 In contrast, Odin teaches telescoping legs 3a, 3b, 3c each having a “flexible leg member 6.” Column 3, lines 7-9. However, the flexible leg member 6 of Odin is only a helical spring member 7 over which is wound a secondary winding 8 of soft iron wire. Column 3, lines 9-14. Each of the spring 7 and wire winding 8 combinations are wrapped in a resilient tubular cover 16 of rubber or the like. Column 3, lines 31-41.

15 The spring 7 and wire winding 8 of Odin clearly fail to disclose or suggest the “solitary” nature of each of the plurality of support rods, as presently recited in claim 1, at least because neither the spring 7 nor the wire winding 8 can stand alone as “solitary.” Rather, the spring 7 and wire winding 8 are complementary and each requires the other to operate as intended for making the leg member 6 flexible.

20 Furthermore, taken as a whole leg member 6, the spring 7 and wire winding 8 parts cannot form the “substantially uniform cross-section” recited in claim 1 at least because each of the spring 7 and wire winding 8 parts are tubular in nature and therefore have a longitudinal hole running their entire respective lengths. Such longitudinal hole makes impossible the “substantially uniform cross-section” recited in claim 1.

25 Any argument that the spring 7 and/or wire winding 8 taken alone have a “substantially uniform cross-section” is utterly specious because neither the spring 7 nor the wire winding 8 is a “support rod” as recited in claim 1. The modifying phrase “substantially uniform cross-section” clearly limits the *solitary support rods* themselves, not individual parts. The “support rods” of Odin are the combination of the spring 7, wire winding 8 and the tubular cover 16. The modifying phrase “substantially uniform cross-section” cannot be applied to the combination of spring 7, wire

winding 8 and tubular cover 16 legs of Odin, especially where the modifier “solitary” has been added to limit the nature of the support rods, as in claim 1.

Thus, Odin fails to disclose or suggest the “solitary uniformly continuous solid permanently  
5 bendable support rods each comprising a substantially uniform cross-section extended uniformly between opposing first and second end portions” of the present invention, as recited in claim 1.

Crane is not a proper reference because Crane fails to disclose or suggest any form of “permanently bendable support rods” which are the key element of the invention. In fact, Crane teaches away from “bendable” support rods. According to Crane, each leg 14 comprises a fixed  
10 leg member 16 and a telescoping leg member 18. The fixed leg members 16 each “comprises a pair of rods 28 located on opposite sides of the telescoping leg member 18.” Column 5, lines 37-39.

“[T]he rods 28 and the telescoping leg member 18 are extruded (more specifically, “pultruded”) from fiberglass or a similar material. Fiberglass has desirable properties of being  
15 resistant to warping and plastic deformation, which are detrimental to the precision of the tripod 10.” Column 5, lines 39-44 (emphasis added). Thus, the legs 14 of Crane are entirely formed of extruded or “pultruded” fiberglass which is “resistant to warping and plastic deformation” because such traits are “detrimental to the precision of the tripod 10.”

The legs 14 must even be “pivotally attached to the head 12 for movement between a use  
20 position (shown in FIG. 1) where the legs are spread apart, and a collapsed position where the legs are closer together.” Column 5, lines 18-21. As shown by the Specification and drawings of the instant application and by Odin, flexible legs do not need to be “pivotally attached” as required by Crane.

Thus, the legs 14 are and must be stiff and “resistant to warping and plastic deformation,  
25 which are detrimental to the precision of the tripod 10.” Column 5, lines 39-44 (emphasis added). In complete contrast to the stiff legs 14 of Crane, Odin teaches the telescoping legs 3a, 3b, 3c each having a “flexible leg member 6.” Column 3, lines 7-9.

Therefore, because Crane teaches legs 14 that require a “stiff” nature, and Odin teaches legs 3a, 3b, 3c that each require a “flexible leg member 6,” each of Crane and Odin teach away from any  
30 combination that makes obvious the “solitary uniformly continuous solid permanently bendable

support rods each comprising a substantially uniform cross-section extended uniformly between opposing first and second end portions,” recited in claim 1.

Furthermore, even if Crane could be combined with Odin, which it obviously cannot, Crain clearly fails to provide the deficiencies of Odin as to the “solitary uniformly continuous solid permanently bendable support rods each comprising a substantially uniform cross-section extended uniformly between opposing first and second end portions,” as recited in currently amended claim 1.

Rather, in contrast to the present invention, as taught by Crane each leg 14 is a combination of the fixed leg member 16 and the telescoping leg member 18 that slides relative to the two rods 28. In claim 1, the modifier “solitary” limits each of the “support rods” to a single part that cannot be a combination of parts. Therefore, by the above definition of “solitary” the support rods cannot be a cobbled together combination of disparate parts as taught by Crane. Rather, the support rod must be “occurring singly and not as part of a group or cluster” as defined by Merriam-Webster’s Collegiate Dictionary. The leg 14 of Crane is no more “solitary” than the spring 7 and wire winding 8 of Odin. Rather, each leg 14 is a combination of the fixed leg member 16 and the telescoping leg member 18.

Furthermore, even taken individually, neither the fixed leg member 16 nor the telescoping leg member 18 is “solitary.” Rather, the fixed leg 16 is the combination of “a pair of rods 28 located on opposite sides of the telescoping leg member 18.” Column 5, lines 37-39. Furthermore, the pair of rods 28 of the fixed leg 16 are one “opposite sides of the telescoping leg member 18.” Column 5, lines 37-39. Therefore, the fixed leg 16 must have both of the pair of rods 28 to balance the telescoping leg member 18. Therefore, the fixed leg 16 requires the combination of the two rods 28. Obviously, the fixed leg 16 cannot be “solitary” because it requires two rods 28. The rods 28 also cannot be “solitary” because they can only be used in combination because used singly they unbalance the telescoping leg member 18 and thus render the device unsatisfactory for its intended purpose of providing “a stable and rigid platform for high precision surveying equipment.” Column 2, lines 15-19.

The telescoping leg member 18 is obviously not “solitary.” Rather, the telescoping leg member 18 requires at least two parts. See, e.g., Figure 17. Inherently the two parts of telescoping leg 18 cannot stand alone or be “solitary” because if “occurring singly and not as part



of a group or cluster” as is meant by “solitary,” a leg is not a “telescoping leg.” Thus, the telescoping leg 18 must be a combination with the two rods 28 of the fixed leg 16. Obviously, the telescoping leg 18 cannot be “solitary” because it requires at least two parts to be “telescoping.” The two parts also cannot be “solitary” because they can only be used in *combination* because  
5 used singly they are not a “telescoping” leg and thus render the device unsatisfactory for its intended purpose of providing “a support which is self retained in a collapsed position” and “which can be readily reconfigured for different ground conditions.” Column 2, lines 24-28.

Thus, clearly the leg 14 of Crane cannot be “solitary,” as recited in claim 1, because if the fixed leg 16 and the telescoping leg member 18 are not combined it would render the Crane  
10 device unsatisfactory for its intended purpose.

Furthermore, the leg 14 is not a support rod that is “substantially uniform cross-section,” which clearly limits the *solitary support rods* themselves, not individual parts: fixed leg 16 and telescoping leg member 18. The leg 14 is a combination of the rods 28 of the fixed leg 16 on either side of the telescoping leg member 18. Each of the rods 28 is “tubular,” as shown in Figures  
15 2, 2A, 3 and 4 and by each having an “internal diameter and internal shape.” See, column 5, lines 39-50 (emphasis added).

Obviously, the cross-section of a tubular shape is never a “substantially uniform cross-section,” as recited in claim 1. Rather, a the cross-section of a tubular member is constantly changing across its diameter as the solid wall at the outside becomes two opposing walls on either  
20 side of the internal diameter or shape, and the cross-section continues to change as the opposing walls first spread apart and then come back together to define the internal diameter or shape. Thus, not only can the rods 28 of the fixed leg 16 not be considered individually without rendering the device unsatisfactory for its intended purpose, but also the tubular shapes of the two rods 28 do not form a “substantially uniform cross-section,” as recited in claim 1.

25 The telescoping leg member 18 also is a tubular member, as shown in Figures 2, 2A, 9A and 17 and by having an “internal diameter and internal shape.” See, column 5, lines 39-50 (emphasis added). The tubular shape of the telescoping leg member 18 makes it impossible to have a “substantially uniform cross-section,” as recited in claim 1. Rather, as discussed immediately above, the cross-section of a tubular member is constantly changing.

Thus, clearly the fixed leg 16 nor the telescoping leg 18 of the leg 14 of Crane cannot have a “substantially uniform cross-section,” as recited in claim 1, at least because both are shown to be tubular in shape, and a tubular shape cannot have a uniform cross-section.

Furthermore, inherently one part (telescoping leg 18) of the leg 14 must pass inside of the second part (fixed leg 16) to operate as a “telescoping” leg as intended. Obviously, the telescoping leg 18 can only pass inside of the fixed leg 16 when the fixed leg 16 is larger than the telescoping leg 18.

Thus, Crane does not disclose or suggest the leg 14 having a “substantially uniform cross-section,” as recited in claim 1, at least because the fixed leg 16 must be larger than the telescoping leg 18 to operate as a telescoping leg, and failure to operate as a telescoping leg would render the Crane device unsatisfactory for its intended purpose.

Crane also fails to disclose or suggest any form of “permanently bendable support rods” which are the key element of the invention. In fact, Crane teaches away from “bendable” support rods. According to Crane, “the rods 28 (of the fixed leg member 16) and the telescoping leg member 18 are extruded (more specifically, “pultruded”) from fiberglass or a similar material. Fiberglass has desirable properties of being resistant to warping and plastic deformation, which are detrimental to the precision of the tripod 10.” Column 5, lines 39-44 (emphasis added). Thus, the legs 14 of Crane are entirely formed of extruded or “pultruded” fiberglass which is “resistant to warping and plastic deformation” because such traits are “detrimental to the precision of the tripod 10.”

Thus, Crane fails to disclose or suggest any form of “permanently bendable support rods,” as recited in claim 1.

Therefore, there is not any combination of Odin and Crane that either discloses or suggests “a plurality of solitary uniformly continuous solid permanently bendable support rods each comprising a substantially uniform cross-section extended uniformly between opposing first and second end portions,” as recited in claim 1.

Ledingham does not add anything to Odin and Crane vis-à-vis “a plurality of solitary uniformly continuous solid permanently bendable support rods each comprising a substantially uniform cross-section extended uniformly between opposing first and second end portions,” as recited in claim 1.

For at least the above reasons, the invention as presently recited in claim 1 is believed to be allowable over any combination of Odin, Crain and Ledingham.

**Response to Examiner's Response to Arguments**

5           The examiner argued that the interior of the support rods of Odin did not change that the rods are "solid" and "continuous." The examiner argued that the outer portion of the rods is made of a "solid material and the rods extend continuously from top to bottom, so therefore the rods are continuous, solid rods."

10           The applicant believes that the current amendment to claim 1 is sufficient to clearly distinguish rods that have an "outer portion" that is made of a "solid material and the rods extend continuously from top to bottom." The applicant believes that claim 1 now clearly requires that each support rod be individually "solitary" and "uniformly continuous solid permanently bendable" and have "a substantially uniform cross-section extended uniformly between opposing first and second end portions."

15           The applicant has not argued against the references individually, except to the extent of showing that 1) the references cannot be combined because both Odin and Crane individually teach away from any such combination; and 2) neither Odin nor Crane disclose or suggest the limitations of claim 1 regarding the support rods so that the two cannot be combined to disclose or suggest what neither discloses or suggests individually.

20           For at least the above reasons, the invention as presently recited in claim 1 is believed to be allowable over any combination of Odin, Crain and Ledingham, and reconsideration and allowance is respectfully requested.

          Claims 2-8 are allowable at least as depending from allowable claim 1.

25           Claim 2 is further allowable as further limiting the support rods as having a uniformly continuous solid cross-section.

          Claim 9 as amended herein differs in scope from allowable claim 1 and dependent claim 2. However, the above arguments and reasons for allowance directed to claims 1 and 2 are sufficiently applicable to claim 9 as to make repetition unnecessary. Thus, for each of the reasons above, claim 9 is believed to be allowable.

30           Claims 10-15 and 17 are allowable at least as depending from allowable claim 9.

Claim 18 as amended herein differs in scope from allowable claims 1 and 9. However, the above arguments and reasons for allowance directed to claims 1 and 9 are sufficiently applicable to claim 18 as to make repetition unnecessary.

5 In claim 18 the term "unitary" is substituted for the term "solitary" as used in claims 1 and 9, wherein "unitary" is defined as: having the character of a unit: UNDIVIDED, WHOLE. Merriam-Webster's Collegiate Dictionary, Tenth Ed.

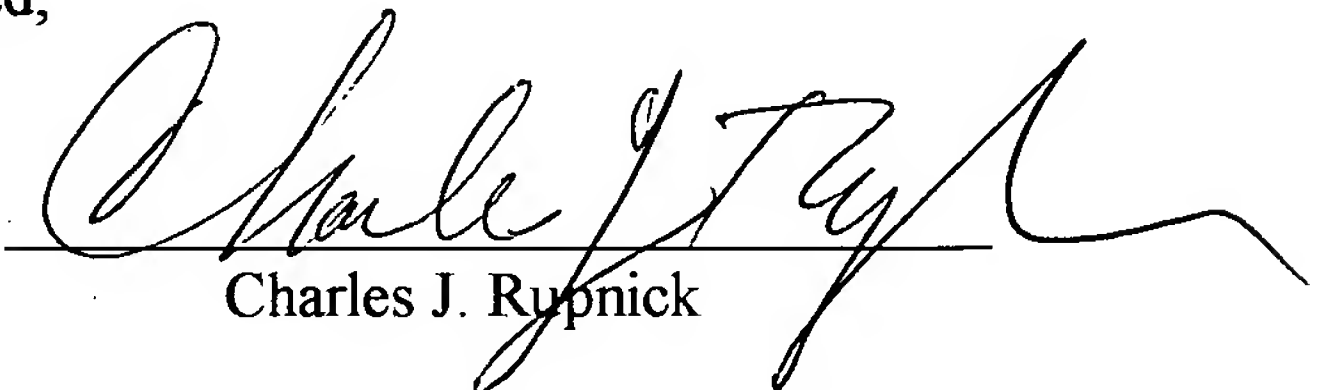
Thus, for each of the reasons above, claim 18 is believed to be allowable.

Claims 19-24 are allowable at least as depending from allowable claim 18.

10 The claims now being in form for allowance, reconsideration and allowance is respectfully requested.

If the Examiner has questions or wishes to discuss any aspect of the case, the Examiner is encouraged to contact the undersigned at the telephone number given below.

15 Respectfully submitted,

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